

BILL	AUTHOR	TITLE	STATUS	POSITION	AMENDED
<b>SB 48</b>	Limón	Dementia and Alzheimer's Disease	Awaiting Committee Referral		
<b>SB 57</b>	Wiener	Controlled Substances: Overdose Prevention Program	Awaiting Committee Referral		

Green – For Discussion

MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

BILL NUMBER: SB 48  
AUTHOR: Limón  
BILL DATE: December 7, 2020, Introduced  
SUBJECT: Dementia and Alzheimer's Disease  
SPONSOR: Alzheimer's Association (California Chapter)

**DESCRIPTION OF CURRENT LEGISLATION:**

This bill would require all general internists and family physicians to complete at least four hours of continuing medical education (CME) on the special care needs of patients with dementia. Would enact related requirements specific to Physician Assistants and Licensed Clinical Social Workers.

**BACKGROUND:**

CME is intended to maintain, develop, or increase the knowledge, skills and professional performance that a physician and surgeon uses to provide care, or to improve the quality of care provided to their patients. The Medical Practice Act (Act) provides the Medical Board of California (Board) broad authority to establish CME standards and requirements, including mandating CME on certain topics. The Act also includes various general CME requirements, including, but not limited to cultural and linguistic competency and implicit bias.

Additionally, the Act establishes the following topical CME requirements:

- All general internists and family physicians who have a patient population of which over 25 percent are 65 years of age or older shall complete at least 20 percent (i.e. 10 hours) of all mandatory CME hours during each two-year renewal cycle in the fields of geriatric medicine or the care of older patients<sup>1</sup>.
- All physicians and surgeons shall complete CME on a one-time basis in the amount of 12 credit hours on either of the following topics:
  - Pain management and the treatment of terminally ill and dying patients
  - Treatment and management of opiate-dependent patients, which includes eight hours of training in buprenorphine, or similar medicinal, treatment for opioid use disorders.

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<sup>1</sup> [See Business and Professions Code \(BPC\) section 2190.3](#)

Via regulation, the Board requires a physician and surgeon to complete not less than 50 hours of approved CME during each two-year period prior to renewing their license. Other than the above-described requirements, physicians and surgeons may exercise discretion to choose the CME most appropriate to their patients and medical practice.

Further, the Act requires the Board to consider requiring CME on various topics, including:

- Human sexuality
- Elder and child abuse detection and treatment
- Acupuncture
- Nutrition
- Early detection and treatment of substance abusing pregnant women
- Signs of abuse of women by their spouses/partners
- End-of-life issues
- Pain management and the risk of addiction associated with the use of Schedule II drugs
- Geriatric care provided by emergency room physicians and surgeons
- HIV/AIDS pre-exposure and post-exposure prophylaxis and counseling in primary care settings
- Integrating mental and physical health care in primary care settings as it pertains to mental health issues and exposure to trauma in children and young adults
- Maternal mental health

#### ANALYSIS:

According to the author:

It is critical that our physicians are as prepared as possible to diagnose for Alzheimer's disease. Far too many in our state live for years without that diagnosis which limits their ability to live their lives understanding what is happening to them. SB 48 will ensure that as our state continues to age, all our elders will be able to receive a timely, accurate, and necessary diagnosis.

The sponsor states that SB 48 would improve the ability of Californians to receive a timely, dignified diagnosis and quality care. The sponsor notes that shortages of medical specialists will place an increasing burden on primary care physicians (PCP) to meet the current and future needs of individuals suffering from Alzheimer's and other forms of dementia. A December 2019 survey<sup>2</sup> of PCPs revealed that 39 percent were never or only sometimes comfortable making a diagnosis of dementia. Further, half of

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<sup>2</sup> [2020 Alzheimer's Disease Facts and Figures, Alzheimer's Association, pages 66-70](#)

survey participants stated that the medical profession is either “not very prepared” or “not at all prepared” to care for the growing numbers of individuals living with dementia.

In January 2021, [Governor Newsom announced](#) the release of California’s first-ever Master Plan for Aging, a comprehensive framework intended to prepare California for anticipated demographic changes in this state. The [California Master Plan for Aging, Stakeholder Advisory Committee Final Report](#) (page 178) recommends that certain providers, including physicians, obtain 10 CME hours in geriatric and dementia competencies.

The author’s office and sponsor believe that current CME requirements are insufficient to prepare PCPs to care for the growing patient population living with dementia. Therefore, they argue that all general internists and family physicians should be required, at a minimum, to complete four hours of CME every renewal cycle on the special care needs of patients with dementia.

They note that current CME requirements for general internists and family physicians pursuant to BPC section 2190.3, which mandates CME in geriatric medicine or the care of older patients, does not necessarily include care related to dementia.

### **Impact of Proposed Requirement**

As currently drafted, the requirements included in SB 48 would be added to existing CME requirements. The four required CME hours must be taken every two years by all general internists and family physicians, regardless of their patient population. Physicians practicing in other specialties would not be affected.

Physicians subject to BPC section 2190.3 would also be impacted. While dementia is most commonly diagnosed in individuals aged 65 years or older, it is not clear that dementia, strictly speaking, falls within the fields of geriatric medicine or the care of older patients. Therefore, a family physician subject to BPC section 2190.3 who chose to complete 10 CME hours in geriatric medicine, may be required to then take an additional four hours in the special care needs of patients with dementia – totaling 14 of their required 50 hours.

### **Board History on Legislation that Mandates CME on Specified Topics**

Generally, the Board is not supportive of legislation that mandates CME on certain topics. In 2014, the Board adopted a policy compendium that states, in relevant part, “[t]he Board believes that each licensed physician should decide which type of continuing education is most appropriate for their practice.”

In the past few years, the Board took the following positions related to CME legislation on specified topics:

- **Neutral:** AB 1791 (Chapter 122 of 2018) requires the Board to consider including a course on the topic of integrating HIV/AIDS pre-exposure and post-exposure prophylaxis and counseling in primary care settings.

- **Neutral:** AB 2487 (Chapter 301 of 2018) established an alternative to the then-current requirement that physicians obtain 12 credit hours of CME on pain management and the treatment of terminally ill and dying patients, by allowing physicians to instead complete 12 credit hours on the treatment and management of opiate-dependent patients and medicinal treatments of opioid use disorder.
- **Support:** SB 1109 (Chapter 693 of 2018) requires CME on pain management and the treatment of terminally ill and dying patients to include the subject of the risks of addiction associated with the use of Schedule II drugs. This bill also required the Board to consider requiring additional CME on the risk of use of Schedule II drugs, and included other provisions related to the opioid epidemic.
- **Neutral:** AB 845 (Chapter 220 of 2019) requires the Board to consider a required CME course on maternal mental health.

According to a 2019 Alzheimer's Association report<sup>3</sup>, 97 percent of patients with Alzheimer's Disease (the most common form of dementia) are aged 65 years or older, which coincides with the age range indicated in BPC section 2190.3.

Due to its previous positions on CME legislation, the Board may wish to consider the following options:

1. If the Board believes that the same general internists and family physicians should be encouraged, but not required to take CME in this area, it could request an amendment to BPC 2190.3 that allows affected physicians to satisfy their 10 hours of CME through taking courses on the special care needs of patients with dementia, geriatric medicine, or the care of older patients.
2. If the Board agrees that requiring four hours of CME in dementia care is necessary for general internists and family physicians who serve primarily a patient population older than age 65, it could request an amendment that limits this requirement to the physicians subject to BPC 2190.3.

FISCAL: Minor and absorbable costs to the Board

SUPPORT: Alzheimer's Association

OPPOSITION: None

POSITION: Recommendation: Oppose, unless Amended

ATTACHMENT: [SB 48, Limon - Dementia and Alzheimer's Disease.](#)  
Version: 12/07/20 – Introduced

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<sup>3</sup> [2019 Alzheimer's Disease Facts and Figures, page 17](#)

MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

BILL NUMBER: SB 57  
AUTHOR: Wiener  
BILL DATE: December 7, 2020, Introduced  
SUBJECT: Controlled Substances: Overdose Prevention Program  
SPONSOR: California Association of Alcohol & Drug Program Executives; California Society of Addiction Medicine; Drug Policy Alliance; National Harm Reduction Coalition; Healthright 360, San Francisco AIDS Foundation; Tarzana Treatment Center

DESCRIPTION OF CURRENT LEGISLATION:

This bill authorizes certain local governments to establish overdose prevention programs (OPP) within their respective jurisdiction. Further, the bill would protect any person or entity from civil and administrative liability, including disciplinary action from a professional licensing board, for their actions, conduct, or omissions related to the operation of an approved OPP. The bill also shields participants from arrest and prosecution pursuant to certain criminal statutes that pertain to the use of controlled substances.

BACKGROUND:

Existing law, the Medical Practice Act, establishes the Medical Board of California (Board) for the licensure and regulation of physicians and surgeons. Pursuant to current law and practice, the Board investigates every complaint received pertaining to its licensees, as appropriate, including cases relating to the quality of care provided to consumers. If warranted by the circumstances, and related evidence, licensees who do not adhere to the relevant standard of care may receive discipline against their license, including probation, suspension, or revocation. For technical and/or minor violations of the law, the Board may issue a citation and fine.

Various provisions of law state that possession, use (or being in the same location with knowledge of the use), or owning or maintaining a place for the use, of controlled substances is a crime.

ANALYSIS:

According to the author:

California is in the midst of an unprecedented overdose crisis that must be treated as a public health crisis. Since 2011, drug overdose has been the leading

cause of accidental death among adults in California. Overdose prevention programs, also called supervised consumption services, are a necessary intervention to prevent overdose deaths. Approximately 165 OPPs exist in 10 countries, and they have been rigorously researched and shown to reduce health and safety problems associated with drug use, including public drug use, discarded syringes, HIV and hepatitis infections, and overdose deaths.

The bill includes various findings and declarations, including the following:

- OPPs are an evidence-based harm reduction strategy that allows individuals to consume drugs in a hygienic environment under the supervision of staff trained to intervene if the individual overdoses. OPPs also provide sterile consumption equipment and offer general medical advice and referrals to substance use disorder treatment, housing, medical care, and other community social services.
- Expresses the intent of the Legislature to prevent fatal and nonfatal drug overdoses, reduce drug use by providing a pathway to drug treatment, as well as medical and social services for high-risk drug users (many of whom are homeless, uninsured, or very low income), prevent the transmission of HIV and hepatitis C, reduce nuisance and public safety problems related to the public use of controlled substances, and reduce emergency room use and hospital utilization related to drug use.

SB 57 establishes a temporary program (until January 1, 2027) that allows the City and County of San Francisco, the County of Los Angeles, and the City of Oakland to establish an OPP within their respective jurisdictions. The bill establishes various requirements that an entity must comply with to operate an OPP, including, but not limited to:

- Provide a hygienic space to consume controlled substances under supervision of staff trained to prevent and treat drug overdoses.
- Provide sterile consumption supplies, collect used equipment, and provide secure hypodermic needle and syringe disposal services.
- Monitor participants for potential overdose and provide care as necessary to prevent fatal overdose.
- Provide access or referrals to substance use disorder treatment services, primary medical care, mental health services, and social services.
- Educate participants on preventing transmission of HIV and viral hepatitis.
- Provide overdose prevention education and access to or referrals to obtain naloxone hydrochloride or another overdose reversal medication approved by the United States Food and Drug Administration.

## Liability Protections Inhibit Consumer Protection

Subdivision (e) of Section 2 of the bill (see Attachment below) provides broad civil, administrative, and disciplinary liability protection (including from specified criminal violations) “solely for actions, conduct, or omissions related to the operation of and on the site of an [approved OPP]....” This language would seem to prevent the Board (and other boards and bureaus within the Department of Consumer Affairs) from taking enforcement action against a licensee who failed to meet the standard of care in these settings.

During a recent meeting, Board staff raised concerns about this language with the author’s office and sponsors, who indicated that while physicians are unlikely to provide care at an OPP, they do not intend to shield providers who fail to provide appropriate care to the clients of an OPP. Further, they stated their desire to work collaboratively with the Board to resolve this concern.

If the Board agrees that staff should continue to work with the author and sponsor to preserve the Board’s authority to take appropriate enforcement action against a licensee who fails to meet the standard of care at an OPP, then the Board may wish to consider adopting an Oppose, Unless Amended position.

FISCAL: None

SUPPORT: London Breed, Mayor of the City and County of San Francisco  
The Mayor and City Council of Oakland  
(list of supporters as indicated on the author’s fact sheet)

OPPOSITION: None

POSITION: Recommendation: Oppose, unless Amended

ATTACHMENT: [SB 57, Wiener - Controlled Substances: Overdose Prevention Program](#)

Version: 12/07/20 – Introduced



<b>BILL</b>	<b>AUTHOR</b>	<b>TITLE</b>	<b>STATUS</b>	<b>AMENDED</b>
AB 2	Fond	Regulations: Legislative Review: Regulatory Reform	Assm. A&AR	
AB 4	Arambula	Medi-Cal: Eligibility	Assm. Health	
AB 6	Levine	Health Facilities: Pandemics and Emergencies: Best Practices	Assm. Health	
AB 7	Rodriguez	Emergency Ambulance Employees: Subsidized Protective Gear	Assm. Labor	
AB 14	Aguiar-Curry	Communications: Broadband Services	Assm. Comms	
AB 32	Aguiar-Curry	Telehealth	Assm. Health	
AB 34	Muratsuchi	Communications: Broadband For All Act of 2022	Assm. Rules	
AB 54	Kiley	COVID-19 Emergency Order Violation: License Revocation	Assm. B&P	
AB 62	Gray	Income Taxes: Credits: Costs to Comply With COVID-19 Regulations	Assm. Rev & Tax	
AB 69	Kiley	State of Emergency: Termination After 60 Days: Extension	Assm. Emer Mgmt	
AB 77	Petrie-Norris	Substance Use Disorder Treatment Services	Assm. Rules	
AB 107	Salas	Department of Consumer Affairs: Boards: Temporary Licenses	Assm. Rules	
AB 108	Cunningham	Governor's Emergency Orders and Regulations: Approval	Assm. Emer Mgmt	
AB 225	Gray	Department of Consumer Affairs: Boards: Veterans: Military Spouses	Assm. Rules	
SB 4	Gonzalez	Communications: California Advanced Services Fund	Senate Rules	
SB 17	Pan	Public Health Crisis: Racism	Senate Rules	
SB 28	Caballero	Digital Infrastructure and Video Competition Act of 2006	Senate Rules	
SB 40	Hurtado	Health Care Workforce Development: Ca Medicine Scholars Program	Senate Rules	
SB 41	Umberg	Privacy: Genetic Testing Companies	Senate Rules	
SB 46	Stern	Telehealth: Mental Health	Vetoed	
SB 73	Wiener	Probation: Eligibility: Crimes Relating to Controlled Substances	Senate Rules	
SB 75	Bates	Southern California Fentanyl Task Force	Senate Rules	
SB 102	Melendez	COVID-19 Emergency Order Violation: License Revocation	Senate Rules	
SB 209	Dahle	State of Emergency: Termination After 7 Days: Extension	Senate Rules	
SCR 5	Melendez	State of Emergency: COVID-19: Termination	Senate Rules	